

EXHIBIT 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA

UNITED STATES OF AMERICA, : Case No. 1:20-cr-00024-001
v. :
HON LAM LUK, :
Defendant. :
: :
:

DECLARATION OF HON LAM LUK IN SUPPORT OF MOTION FOR MODIFICATION OF SENTENCE

I, Hon Lam Luk declares:

1. I pleaded guilty to a criminal information charging me with Conspiracy to Distribute a controlled substance in violation of 21 U.S.C. § 846, 841(a)(1). On July 21, 2020 I the Court sentenced me to 46 months imprisonment, followed by 3 years of supervised release. In imposing that sentence the Court acknowledged that I would be eligible to participate in RDAP and earn time off resulting in earlier release by one year.

2. As the first person in this matter as a whole to be sentenced, my attorney provided no basis for the Court to support the unwarranted disparity that would be created either nationally or in the matter.

3. Prior to sentencing my lawyer told me the judge's hands are tied and she cannot sentence me below the government's recommended guideline range and the low end of the guideline would be the best outcome giving me the best day in court. While it is acknowledged he failed a 2 page memorandum for me, he simply stated "we seek a sentence of 46 months" which he never discussed with me prior to making such a representation. There was no "we," he decided to take such a position.

4. As shown on the Chart attached to this declaration and labeled 'DX1' identifies my co-defendants, their Criminal History Category, Base Offense level, final offense level and sentenced imposed.

5. For me as shown on the Chart, id., I started as a base offense level 32, whereas my co-defendants started at a base offense level of 34 and inexplicably received the same sentence as I did even though they had a larger indispensable role in the offense.

5. The Government has made various representations to the Court in its filings in each of the co-defendant's cases in Sentencing Position Memorandums that I was "not the most culpable individual," "was not connected to source of supplier," "did not have a propriety stake," "did [not] pay other individuals involved for their work," and "role was similar to Lien Kim Thi Pham."

6. The individuals who started as base offense level 34 were investors and were indispensable individuals, they were investors and paid other individuals, yet they received the same sentence as me.

7. While the Government acknowledges that my role was similar to Lien Kim Thi Phan I was not sentence as such. I recognize that I am not the least culpable in the conspiracy like my wife Duong Thi Nguyen. It should be recognized that Phan was the one who instructed me and I passed those instructions to others. I had no share in the darkweb, notwithstanding that I was paid a flat rate for my participation.

8. As mentioned, when I was sentenced the took into account that I would be able to participate in RDAP to get help and that I would be eligible for a one year reduction. However, when I arrived in the BOP, because of arbitrary criteria utilized by the institution, they refused to allow me to participate even though I believe I meet the criteria.

9. Since my arrival in the BOP, I have maintained clear conduct, have been suffering anxiety and stress of 23 hour lockdowns as a result of COVID and rolling solitary like confinement as a result of the prison camp having outbreaks of COVID 19.

10. Thus far, I have attempted to participate in self-study courses including the drug education program and national parenting class.

11. I have 2 young sons, one is in the United States and one in vietnam, who both are desperately in need of my support. Since my incarceration, it has been a financial disaster for my family. My father had to come out of retirement and work 3 jobs at the age of 70 because my mother has to stay home to take care of my young son and given the COVID pandemic, their income is very unstable.

12. I am asking the Court to reduce me sentence to time served or alternatively, modify my sentence to a 'special term' of supervised release for the remainder of my sentence. Prior to my offense, I had regular employment and can pursue legitimate professional ends to support myself and family.

I declare the foregoing to be true and correct under penalty of perjury pursuant to 28 U.S.C. § 1746.

4-18-21

Date


Hon Lam Luk

EXHIBIT A

LEWLR 540*23 * SENTENCE MONITORING * 04-12-2021
PAGE 001 * COMPUTATION DATA * 14:04:39
AS OF 04-12-2021

REGNO...: 93972-083 NAME: LUK, HON LAM

FBI NO.....: 976707MF9 DATE OF BIRTH: [REDACTED]-1987 AGE: 34
ARS1.....: LEW/A-DES
UNIT.....: LEC QUARTERS.....: K05-008L
DETAINERS.....: NO NOTIFICATIONS: NO

HOME DETENTION ELIGIBILITY DATE: 10-27-2022

THE FOLLOWING SENTENCE DATA IS FOR THE INMATE'S CURRENT COMMITMENT.
THE INMATE IS PROJECTED FOR RELEASE: 03-15-2023 VIA GCT REL

-----COURT JUDGMENT/WARRANT NO: 010 -----

COURT OF JURISDICTION.....: VIRGINIA, EASTERN DISTRICT
DOCKET NUMBER.....: 1:20CR00024-001
JUDGE.....: BRINKEMA
DATE SENTENCED/PROBATION IMPOSED: 07-21-2020
DATE COMMITTED.....: 10-21-2020
HOW COMMITTED.....: US DISTRICT COURT COMMITMENT
PROBATION IMPOSED.....: NO

	FELONY ASSESS	MISDMNR ASSESS	FINES	COSTS
NON-COMMITTED.:	\$200.00	\$00.00	\$00.00	\$00.00
RESTITUTION....:	PROPERTY: NO	SERVICES: NO	AMOUNT: \$00.00	

-----CURRENT OBLIGATION NO: 010 -----
OFFENSE CODE....: 391 21:846 SEC 841-851 ATTEMPT
OFF/CHG: 21:846 & 841(A)(1) CONSP TO DISTRIBUTE CONTROLLED SUBSTANCES
21:841(A)(1) PWITD CONTROLLED SUBSTANCES

SENTENCE PROCEDURE.....: 3559 PLRA SENTENCE
SENTENCE IMPOSED/TIME TO SERVE.: 46 MONTHS
TERM OF SUPERVISION.....: 3 YEARS
DATE OF OFFENSE.....: 12-09-2019

LEWLR 540*23 *
PAGE 002 OF 002 *SENTENCE MONITORING
COMPUTATION DATA
AS OF 04-12-2021* 04-12-2021
* 14:04:39

REGNO...: 93972-083 NAME: LUK, HON LAM

-----CURRENT COMPUTATION NO: 010 -----

COMPUTATION 010 WAS LAST UPDATED ON 08-12-2020 AT DSC AUTOMATICALLY
COMPUTATION CERTIFIED ON 08-19-2020 BY DESIG/SENTENCE COMPUTATION CTRTHE FOLLOWING JUDGMENTS, WARRANTS AND OBLIGATIONS ARE INCLUDED IN
CURRENT COMPUTATION 010: 010 010

DATE COMPUTATION BEGAN.....: 07-21-2020

TOTAL TERM IN EFFECT.....: 46 MONTHS

TOTAL TERM IN EFFECT CONVERTED...: 3 YEARS 10 MONTHS

EARLIEST DATE OF OFFENSE.....: 12-09-2019

JAIL CREDIT.....: FROM DATE THRU DATE
12-09-2019 07-20-2020

TOTAL PRIOR CREDIT TIME.....: 225

TOTAL INOPERATIVE TIME.....: 0

TOTAL GCT EARNED AND PROJECTED...: 207

TOTAL GCT EARNED.....: 54

STATUTORY RELEASE DATE PROJECTED: 03-15-2023

ELDERLY OFFENDER TWO THIRDS DATE: 06-29-2022

EXPIRATION FULL TERM DATE.....: 10-08-2023

TIME SERVED.....: 1 YEARS 4 MONTHS 4 DAYS

PERCENTAGE OF FULL TERM SERVED...: 35.0

PERCENT OF STATUTORY TERM SERVED: 41.1

PROJECTED SATISFACTION DATE.....: 03-15-2023

PROJECTED SATISFACTION METHOD...: GCT REL

S0055 NO PRIOR SENTENCE DATA EXISTS FOR THIS INMATE

EXHIBIT B

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: Luk Hon.
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. 93972-083 UNIT 2 INSTITUTION Lewisburg Camp

Part A- INMATE REQUEST I am requesting compassionate release / modification of my sentence based on the current conditions of confinement, the COVID-19 pandemic and the sentencing disparity between my sentence and my co-defendants. Had my attorney argued the issue I would have received a less harsh sentence.

My release plan is documented in my inmate central,

03/03/2021
 DATE

J. Ben
 SIGNATURE OF REQUESTER

Part B- RESPONSE

RECEIVED

MAR 09 2021

ADMIN REMEDY CLERK
USP LEWISBURG

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 1071918-F1

CASE NUMBER: _____

Part C- RECEIPT

Return to: LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

DATE

RECIPIENT'S SIGNATURE (STAFF MEMBER)

USP LVN



PRINTED ON RECYCLED PAPER

Admin. Remedy No.: 1071918-F1

Part B- Response

ADMINISTRATIVE REMEDY RESPONSE

This is in response to your Request for Administrative Remedy received March 9, 2021, wherein you request a Compassionate Release due to the COVID-19 pandemic. You also challenge the appropriateness of your sentence.

Per Program Statement 5050.50, Compassionate Release/Reduction in Sentence, 5050.50, an inmate may initiate a request for consideration under 18 U.S.C. 4205(g) or 3582(c) (1) (A) only when there are particularly extraordinary or compelling circumstances which could not reasonably have been foreseen by the court at the time of sentencing. An inmate's request shall at a minimum contain the following information: (1) The extraordinary or compelling circumstances that the inmate believes warrant consideration. (2) Proposed release plans, including where the inmate will reside, how the inmate will support himself/herself, and, if the basis for the request involves the inmate's health, information on where the inmate will receive medical treatment, and how the inmate will pay for such treatment.

A review of this matter revealed you do not meet the criteria for a Compassionate Release.

The BOP is taking extraordinary measures to contain the spread of COVID-19 and treat any affected inmates. We recognize that you, like all of us, have legitimate concerns and fears about the spread and effects of the virus. However, your concern about being potentially exposed to, or possibly contracting, COVID-19 does not currently warrant an early release from your sentence.

Additionally, challenges to the validity or appropriateness of a sentence are outside the BOP's authority to address under the First Step Act or otherwise. Accordingly, your request for a Reduction in Sentence is denied.

If you are dissatisfied with this response, you may appeal to the Regional Director, United States Federal Bureau of Prisons, Northeast Regional Office, United States Customs House - Seventh Floor, Second and Chestnut Streets, Philadelphia, PA 19106, within twenty (20) calendar days from the date of this response.

Date

3/11/21

RADM S. Spaulding, Warden

EXHIBIT C

EXHIBIT C

**Individualized Needs Plan - Initial Classification (Inmate Copy)**

SEQUENCE: 02218195

Dept. of Justice / Federal Bureau of Prisons

Team Date: 11-18-2020

Plan is for inmate: LUK, HON LAM 93972-083

Facility: LEW LEWISBURG USP

Proj. Rel. Date: 03-15-2023

Name: LUK, HON LAM

Proj. Rel. Mthd: GCT REL

Register No.: 93972-083

DNA Status: LEW04543 / 10-23-2020

Age: 33

Date of Birth: [REDACTED] 1987

Detainers:

Detaining Agency	Remarks
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NO DETAINER

Current Work Assignments

Fac	Assignment	Description	Start
LEW	A&O-LEC	NO WRK UNTIL A&O IS COMPLTED	10-21-2020

Current Education Information

Fac	Assignment	Description	Start
LEW	ESL HAS	ENGLISH PROFICIENT	10-28-2020
LEW	GED HAS	COMPLETED GED OR HS DIPLOMA	10-28-2020

Education Courses

SubFac	Action	Description	Start	Stop
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NO COURSES

Discipline History (Last 6 months)

Hearing Date	Prohibited Acts
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** NO INCIDENT REPORTS FOUND IN LAST 6 MONTHS **

Current Care Assignments

Assignment	Description	Start
CARE1	HEALTHY OR SIMPLE CHRONIC CARE	10-21-2020
CARE1-MH	CARE1-MENTAL HEALTH	10-26-2020

Current Medical Duty Status Assignments

Assignment	Description	Start
C19-QUAR	COVID-19 QUARANTINED	10-21-2020
REG DUTY	NO MEDICAL RESTR-REGULAR DUTY	11-17-2020
YES F/S	CLEARED FOR FOOD SERVICE	11-17-2020

Current Drug Assignments

Assignment	Description	Start
DAP REFER	DRUG ABUSE PROGRAM REFER	10-26-2020
ED WAIT RJ	DRUG EDUCATION WAIT-RQ JUDREC	11-17-2020

FRP Details

Most Recent Payment Plan

** NO FRP DETAILS **

Progress since last review:

Initial Program Review.

Next Program Review Goals

Maintain a clear conduct record. Interact respectfully with staff, abide by rules and regulations, and attend scheduled callouts. Make productive use of time through the Education, Psychology, Religious and Recreation Department's programs and resources. Enroll in ACE course or VT by 1-2021.
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Long Term Goals

Complete the Release Orientation Program prior to 03-15-2023 release. Start participating in Evidence based Recidivism reduction (EBRR) programs when available.
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RRC/HC Placement



Individualized Needs Plan - Initial Classification (Inmate Copy)

Dept. of Justice / Federal Bureau of Prisons

Plan is for inmate: LUK, HON LAM 93972-083

SEQUENCE: 02218195

Team Date: 11-18-2020

Comments

** No notes entered **



Individualized Needs Plan - Initial Classification (Inmate Copy)

SEQUENCE: 02218195

Dept. of Justice / Federal Bureau of Prisons

Team Date: 11-18-2020

Plan is for inmate: LUK, HON LAM 93972-083

Name: LUK, HON LAM

DNA Status: LEW04543 / 10-23-2020

Register No.: 93972-083

Age: 33

Date of Birth: [REDACTED] 1987

Inmate (LUK, HON LAM. Register No.: 93972-083)

Date

Unit Manager / Chairperson

Case Manager

Date

Date

Certificate of Completion

FPC Lewisburg, Pennsylvania

Hon Luk

Completed the

Drug Education Program

March 31, 2021

H. Birdsall
H. Birdsall
Drug Treatment Specialist

EXHIBIT D

BP-A0941
JUN 10**U. S. DEPARTMENT OF JUSTICE****FEDERAL BUREAU OF PRISONS****SECTION 1 - RESIDENTIAL DRUG ABUSE PROGRAM QUALIFICATION**

YOU HAVE REQUESTED PARTICIPATION IN THE BUREAU'S RESIDENTIAL DRUG ABUSE TREATMENT PROGRAM. MY REVIEW OF YOUR CASE INDICATES DO DO NOT QUALIFY FOR THE RESIDENTIAL DRUG ABUSE PROGRAM. (comment on documentation and clinical interview).

Comments:

Inmate Luk's PSR does not indicate that he had a problematic substance use problem in the year prior to his arrest. He was provided information and encouraged to apply for the Non-Residential Treatment Drug Program.

If inmate does not qualify for the RDAP no offense review is required.

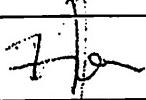
SECTION 2 - OFFENSE REVIEW

— A DSCC OFFENSE REVIEW HAS BEEN REQUESTED.

— A DSCC OFFENSE REVIEW HAS NOT BEEN REQUESTED:

- (a) you have received a prior early release under §3621(e);
- (b) you are a contract boarder (e.g., state or military inmate);
- (c) you were sentenced under old law.

My signature indicates I have been informed of my RDAP qualification status.

Inmate Name Printed Luk, Hon	Staff Name Printed Heather L. Ramirez, Psy.D.
Inmate Signature 	Staff Signature 
Register Number 93972-083	Staff Title DAPC
Date 12/8/20	Date 12/8/20

Refused to sign

 Yes No

cc: Drug Abuse Treatment File Unit Team
Unit Team (place in section 4 of inmate central file)

EXHIBIT E

Place holder for Education Transcript
and PP37 Screen Print from
SENTRY

EXHIBIT F

MALE PATTERN RISK SCORING

Register Number:	93972-083	Date:	11/17/2020			
Inmate Name:	Luk, Hon					
MALE RISK ITEM SCORING		CATEGORY	GENERAL SCORE	Enter Score	VIOLENT SCORE	Enter Score
1. Current Age Click on gray dropdown box to select, then click on dropdown arrow	30-40	> 60	0	21	0	12
		51-60	7			
		41-50	14			
		30-40	21			
		26-29	28			
		< 26	35			
2. Walsh w/Conviction	No	No	0	0	0	0
		Yes	1		0	
3. Violent Offense (PATTERN)	No	No	0	0	0	0
		Yes	5		5	
4. Criminal History Points	0 - 1 Points	0 - 1 Points	0	0	0	0
		2 - 3 Points	8			
		4 - 6 Points	16			
		7 - 9 Points	24			
		10 - 12 Points	32			
		> 12 Points	40			
5. History of Escapes	None	None	0	0	0	0
		> 10 Years Minor	2			
		5 - 10 Years Minor	4			
		< 5 Years Minor/Any Serious	6			
6. History of Violence	None	None	0	0	0	0
		> 10 Years Minor	1			
		> 15 Years Serious	2			
		5 - 10 Years Minor	3			
		10 - 15 Years Serious	4			
		< 5 Years Minor	5			
		5 - 10 Years Serious	6			
7. Education Score	HS Degree / GED	Not Enrolled	0	-4	0	-2
		Enrolled in GED	-2			
		HS Degree / GED	-4			
8. Drug Program Status	No DAP Completed	No DAP Completed	0	0	0	0
		NRDAP Complete	-3			
		RDAP Complete	-6			
		No Need	-9			
9. All Incident Reports (120 months)	0	0	0	0	0	0
		1	1			
		2	2			
		> 2	3			
10. Serious Incident Reports (120 months)	0	0	0	0	0	0
		1	2			
		2	4			
		> 2	6			
11. Time Since Last Incident Report	12+ months or no incidents	12+ months or no incidents	0	0	0	0
		7-12 months	2			
		3-6 months	4			
		<3	6			
12. Time Since Last Serious Incident Report	12+ months or no incidents	12+ months or no incidents	0	0	0	0
		7-12 months	1			
		3-6 months	2			
		<3	6			
13. FRP Refuse	NO	NO	0	0	0	0
		YES	1			
14. Programs Completed	0	0	0	0	0	0
		1	-2			
		2 - 3	-4			
		4 - 10	-6			
		> 10	-8			
15. Work Programs	0 Programs	0 Programs	0	0	0	0
		1 Program	-1			
		>1 Program	-2			
Total Score (Sum of Columns)		General:	17	Violent:	10	
General/Violent Risk Levels		General:	Low	Violent:	Low	
OVERALL MALE PATTERN RISK LEVEL			Low			

EXHIBIT C

EXHIBIT DX1

<u>Defendant's Name</u>	<u>Crim. Hist.</u>	<u>Base Off.</u>	<u>Final Off.</u>	<u>Guide-</u>	
	<u>Category</u>	<u>Level</u>	<u>Level</u>	<u>Lines</u>	<u>Sentence</u>

Leader

Tyler Pham - Fugitive

Investors

Son Nguyen	I	34	29	87-108	46 months
Dat Nguyen	I	34	29	87-108	46 months
Trieu N. Nguyen Hoang	I	34	29	87-108	46 months

Participants

Lien Kim Thi Phan*	I	32	27	70-87	6 month H/C
Hon Luk	I	32	27	70-87	46 months
Duong Thuy Nguyen	I	32	27	70-87	5 yr supv.

*Hon Luk took directions from Phan. Phan was the individual who brought all the materials to his house that was recovered by law enforcement.

In the case of Son Nguyen, Trieu Nguyen Hoang, the Court granted a 52.87% departure from the low-end of the guidelines (87 months) or 41 months. In Luk's case with a low end guideline of 70 months, he was only given a 24 month departure. This represents a significant disparity given that his base offense level and guideline was lower than the investors in the case. Using the 41 months departure the Court granted to the investors, Luk reasonably should have received a sentence between 18-24 months.